

AMENDED IN SENATE APRIL 26, 2005

AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 923

Introduced by Senators Florez and Ashburn

February 22, 2005

An act to add Section 2087 to the Health and Safety Code, and to add Sections 17207.7 and 24347.7 to the Revenue and Taxation Code, relating to West Nile virus, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 923, as amended, Florez. Unemployment: transition assistance.

Existing law provides for the establishment of mosquito and vector control districts.

This bill would, to the extent emergency funds are available, or made available, require the State Department of Health Services to allocate those funds *that the department receives for West Nile virus control purposes* to those districts and to the department for purposes of abatement and control of mosquitos and vectors that cause the transmission of West Nile virus, as provided.

The Personal Income Tax Law and the Corporation Tax law provide for the carryover to specified taxable years of specified losses sustained as a result of certain disasters.

This bill would allow the carryover to specified taxable years of any excess loss, as defined, sustained on or after January 1, 2005, as a result of the West Nile virus.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 2087 is added to the Health and Safety Code, to read:

2087. (a) The Legislature finds and declares that West Nile virus poses a grave public health threat, and that it is imperative that adequate funds be made available for purposes of mosquito and vector control in order to prevent outbreaks of the virus.

(b) Notwithstanding any other provision of law to the contrary, to the extent that emergency funds are available, or made available, the department shall allocate those funds *that the department receives for West Nile virus control purposes*, as follows:

(1) To mosquito abatement and vector control districts for purposes of abatement and control of mosquitos and vectors that cause the transmission of West Nile virus.

(2) To the department for purposes of abatement and control of mosquitos and vectors that cause the transmission of West Nile virus in those areas in this state where there are no existing mosquito and vector controls.

SEC. 2. Section 17207.7 is added to the Revenue and Taxation Code, to read:

17207.7. (a) An excess loss, as defined in subdivision (c), sustained on or after January 1, 2005, shall be carried to other taxable years as provided in subdivision (b), with respect to any loss sustained as a result of the West Nile virus.

(b) (1) In the case of any loss allowed under Section 165(c) of the Internal Revenue Code, relating to limitation of losses of individuals, any excess loss shall be carried forward to each of the five taxable years following the taxable year for which the loss is claimed. However, if there is any excess loss remaining after the five-year period, then the applicable percentage, as set forth in paragraph (1) of subdivision (b) of Section 17276, of that excess loss shall be carried forward to each of the next 10 taxable years.

(2) The entire amount of any excess loss as defined in subdivision (c) shall be carried to the earliest of the taxable years to which, by reason of subdivision (b), the loss may be carried. The portion of the loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of excess

1 loss over the sum of the adjusted taxable income for each of the
2 prior taxable years to which that excess loss is carried.

3 (c) “Excess loss” means a loss computed pursuant to Section
4 165 of the Internal Revenue Code, which exceeds the adjusted
5 taxable income of the year of loss or, if the election under
6 subdivision (f) is made, the adjusted taxable income of the year
7 preceding the loss.

8 (d) Losses allowable under this section may not be taken into
9 account in computing a net operating loss deduction under
10 Section 172 of the Internal Revenue Code.

11 (e) For purposes of this section, “adjusted taxable income”
12 shall be defined by Section 1212(b)(2)(B) of the Internal
13 Revenue Code.

14 (f) A taxpayer may elect to take the loss into account in the
15 taxable year preceding the taxable year in which the loss is
16 incurred. The election may be made on a return or amended
17 return filed on or before the due date of the return, determined
18 with regard to extension, for the taxable year in which the
19 disaster occurred.

20 SEC. 3. Section 24347.7 is added to the Revenue and
21 Taxation Code, to read:

22 24347.7. (a) An excess loss, as defined in subdivision (c),
23 sustained on or after January 1, 2005, shall be carried to other
24 taxable years as provided in subdivision (b), with respect to any
25 loss sustained as a result of the West Nile virus.

26 (b) (1) In the case of any loss allowed under Section 165 of
27 the Internal Revenue Code, relating to losses, any excess loss
28 shall be carried forward to each of the five taxable years
29 following the taxable year for which the loss is claimed.
30 However, if there is any excess loss remaining after the five-year
31 period, then the applicable percentage, as set forth in paragraph
32 (1) of subdivision (b) of Section 24416, of that excess loss shall
33 be carried forward to each of the next 10 taxable years.

34 (2) The entire amount of any excess loss as defined in
35 subdivision (c) shall be carried to the earliest of the taxable years
36 to which, by reason of subdivision (b), the loss may be carried.
37 The portion of the loss which shall be carried to each of the other
38 taxable years shall be the excess, if any, of the amount of excess
39 loss over the sum of the net income for each of the prior taxable
40 years to which that excess loss is carried.

1 (c) “Excess loss” means a loss computed pursuant to Section
2 165 of the Internal Revenue Code, which exceeds the net income
3 of the year of loss or, if the election under subdivision (f) is
4 made, the net income of the year preceding the loss.

5 (d) Any corporation subject to the provisions of Section 25101
6 or 25101.15 that has losses pursuant to this section, shall
7 determine the excess loss to be carried to other taxable years
8 under the principles specified in Section 25108 relating to net
9 operating losses.

10 (e) Losses allowable under this section may not be taken into
11 account in computing a net operating loss deduction under
12 Section 172 of the Internal Revenue Code.

13 (f) A taxpayer may elect to take the loss into account in the
14 taxable year preceding the taxable year in which the loss is
15 incurred. The election may be made on a return or amended
16 return filed on or before the due date of the return, determined
17 with regard to extension, for the taxable year in which the
18 disaster occurred.

19 SEC. 4. This act is an urgency statute necessary for the
20 immediate preservation of the public peace, health, or safety
21 within the meaning of Article IV of the Constitution and shall go
22 into immediate effect. The facts constituting the necessity are:

23 In order to prevent outbreaks of West Nile virus, and to
24 provide essential relief to persons who suffer damage as a result
25 of the virus, it is necessary that this act take effect immediately.